

RESOLUTION NO. 74366

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ INITIATING REORGANIZATION PROCEEDINGS FOR THE ANNEXATION AND DETACHMENT OF CERTAIN UNINHABITED TERRITORY, DESIGNATED AS BURBANK NO. 40 AND DESCRIBED HEREIN, AND SETTING THE DATE, TIME AND PLACE FOR CONSIDERATION OF SUCH REORGANIZATION

WHEREAS, the City of San José desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code of the annexation of certain territory to the City of San José and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Services, Burbank Sanitary; and County Lighting County Services.

WHEREAS, this proposal includes an annexation to the City of San José located in the County of Santa Clara of unincorporated territory within the urban service area of said City and is not subject to review by the Local Agency Formation Commission as provided under Section 56757 of the California Government Code; and

WHEREAS, such unincorporated territory is known by the short form designation of **Burbank No. 40** and a description of the boundaries of the territory is set forth in Exhibit "A," attached hereto and incorporated herein by this reference, and is subject to correction or revision as required; and

WHEREAS, a map showing the location of such territory is attached hereto as Exhibit "B" and incorporated herein by this reference; and

WHEREAS, the subject real property, comprising 2.78 ± acres on the northwest corner of West San Carlos Street and Brooklyn Avenue and public right-of-way along West San Carlos Street, Brooklyn Avenue, and Topeka Avenue, San Jose (APN(s) 274-17-085, -011, -012, -013) is contiguous to the City of San José and is within its urban service area; and

WHEREAS, the following special districts would be affected by the proposed annexation: Central Fire Protection, Area No. 01 (Library Services) County Service, Burbank Sanitary and County Lighting County Services; and

WHEREAS, annexation would provide for the use of City services; and

WHEREAS, this unincorporated territory was pre-zoned on March 18, 2008 to the City of San José, prezone designation of CP Commercial Pedestrian Zoning District on one parcel along West San Carlos (274-17-085) and to R-1-8 Single Family Residence District on three parcels along Brooklyn Avenue (274-17-011, -012, -013); and

WHEREAS, the City of San José, is Lead Agency for environmental review for the reorganization known as **Burbank No. 40** under the California Environmental Quality Act of 1970, as amended ("CEQA"); and

WHEREAS, the Director of Planning, Building and Code Enforcement has determined that this proposal constitutes a project under CEQA and that the environmental impacts of this proposed project are analyzed under the Final Environmental Impact Report entitled, "San Jose 2020 General Plan Environmental Impact Report," prepared for the City of San Jose 2020 General Plan (the "FEIR"), which FEIR was certified by the City Council on August 16, 1994, and for which the City Council adopted Resolution Number 65459; and

WHEREAS, the County Surveyor of Santa Clara County has found the legal description and the map (Exhibits "A" and "B," respectively) to be in accordance with the requirements of California Government Code Section 56757, the boundaries to be defined and certain, and the proposal to be in compliance with LAFCO's road annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the City Council of the City of San José shall be the conducting authority for a reorganization including an annexation to the City; and

WHEREAS, as the territory is uninhabited and all owners of land included in proposal have consented to this annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of the land within the affected territory the City Council may approve or disapprove the annexation without public hearing; and

WHEREAS, this proposal is consistent with the sphere of influence of the City of San José; and

WHEREAS, it is anticipated that the proposed reorganization will be recommended to be subject to following terms and conditions; none; and

WHEREAS, the reason for the proposed reorganization is as follows: to facilitate subsequent development for commercial uses.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

That the City Council hereby initiates proceedings for the proposed reorganization of the designated unincorporated territory known as **Burbank No. 40** and sets June 17, 2008 at 1:30 p.m., in the Council Chambers, City Hall, 200 East Santa Clara Street, San José, California, as the date, time and place for consideration of such reorganization. This Council is hereby designated as the conducting authority of said proceedings.

ADOPTED this 20th day of May, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE, WILLIAMS, REED

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

Attachment: Exhibits "A" and "B"
100%Init, 207-07